IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 3246 of 2007(J)

PETITIONER:

KOSHY MATHEW @ SANTHOSH,
PUTHUPARAMBIL HOUSE, NEAR SANTHOSH JUNCTION,
OMALLOOR, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

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1. OMALLOOR GRAMA PANCHAYAT,
OMALLOOR P.O., PATHANAMTHITTA-689 647,
REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY,
OMALLOOR GRAMA PANCHAYAT, OMALLOOR P.O.,
PATHANAMTHITTA-689 647.

BY ADV. SRI.C.B.SREEKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 3246 of 2007

Dated this 9th day of February , 2007

JUDGMENT

The Senior Environment Engineer, Kerala State Pollution Control Board, Pathanamthitta District, is impleaded as suo motu as additional 3rd respondent. The Office will carry court corrections in the cause title.

2. Sri.C.B.Sreekumar, the learned Standing Counsel for the respondent Panchayat submits that though it is true that Ext.P10 decision was taken without hearing the petitioner, the petitioner is only pretending ignorance. The petitioner was very well aware of the inspection conducted by the Public Health Authority and also of the order of the District Collector. Sri.Philip.T.Varghese, the learned counsel for the petitioner takes exception to the above submission of the Standing Counsel. The Standing Counsel further submits that it is without licence from the Panchayat the chicken farm is being conducted by the petitioner for the past 13 years.

3. On going through Ext.P10 I find that the conduct of

chicken farm without licence from the local authority is not the reason on the basis of which Ext.P10 has been issued. The Panchayat is not entitled to support Ext.P10 on a reason which does not find a place in Ext.P10. Even though Standing Counsel sought for time to file a counter affidavit, I am of the view that in view of the obvious and conceded position that Ext.P10 decision was taken by the committee of the Panchayat without hearing the petitioner, the said order is liable to be quashed. Ext.P10 accordingly is quashed on that ground alone without going into the merits of the grounds raised by the petitioner i.e. on the ground of violation of the principles of natural justice alone. The Panchayat is directed to take a fresh decision after issuing a notice to the petitioner and inviting objections, if any, to the proposal to cancel the licence . The petitioner will be supplied with copies of the materials on which the Panchayat relies for its proposal to cancel the licence. Fresh order as directed above will be passed by the Panchayat at its earliest and at any rate within six weeks of receiving a copy of this judgment.

In the meanwhile, the Additional 3rd respondent will immediately consider Ext.P7 application submitted by the

petitioner for consent and pass orders on the same. Order as directed above will be passed by the additional 3rd respondent within 10 days of receiving a copy of this judgment. The status quo as directed by this court on 1.2.2007 will continue. But its continuance beyond a period of two weeks from today will be subject to the decision to be taken by the 3rd respondent on Ext.P7.

PIUS C.KURIAKOSE
Judge

dpk